

HOUSE BILL 2608
By McDaniel

AN ACT to amend Tennessee Code Annotated, Title 53, Chapter 8 and Title 68, Chapter 14, relative to requiring food service sanitation training in all food service establishments licensed by the state of Tennessee.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated Title 53, Chapter 8, is hereby amended by adding the following new section thereto:

Section 53-8-117

(a) By July 1, 2006, all food service establishments that prepare and serve potentially hazardous foods and that are required by the provisions of this chapter to obtain an annual permit from the commissioner of health shall have at least one (1) responsible employee or food service manager of such establishment who has successfully completed food service sanitation training through a program developed using a job task analysis for the restaurant and food service industry and received certification by passing an exam that is accredited by the Conference for Food Protection. If such employee or manager has received certification or recertification in another state, the commissioner may accept such certification or recertification on a reciprocal basis provided the other state's program is the equivalent of the approved program in this state.

(b) The department may design, establish, and conduct the initial certification training program or the recertification training or it may delegate such duties to a private person, entity, or association subject to the provisions of this section.

(c) Any person, entity or association that desires to conduct an approved food service sanitation training and certification program or a recertification program shall, submit its proposal for either or both such programs to the commissioner. The

commissioner shall approve such proposal before a person, entity or association engages in any training. Such proposal shall contain, at least, the following information:

(1) Whether the proposal is for an initial certification training program or a recertification program;

(2) The specifics of the proposed program including instructional materials, course outlines, and the duration of the program;

(3) The number and qualifications of the instructors that will be conducting the proposed program;

(4) The number of food service establishment employees or managers that can be trained and certified during each program;

(5) The frequency with which the training program will be offered;

(6) The cost per employee of attending the program;

(7) Proof that the program is the same as or equivalent to the “SERVSAFE, Serving Safe Food” training and certification or recertification program established by the Educational Foundation of the National Restaurant Association; and

(8) Proof that the proposed program will be acceptable in other states.

(d) The commissioner may require such person, entity or association to submit such other information as the commissioner deems necessary to thoroughly evaluate the proposed training and certification program or recertification program.

(e) If no person, entity, or association submits a proposal to conduct a food service sanitation training and certification program or a recertification program, or if the proposals submitted for either such program are not satisfactory to the commissioner, the commissioner shall establish and conduct the program or programs not delegated.

(f) Any such certification or recertification program approved or established and conducted by the commissioner shall:

(1) Be the same or as equivalent to the “SERVSAFE, Serving Safe Food” training and certification or recertification program established by the Educational Foundation of the National Restaurant Association;

(2) Cost the food service establishment employee no more than the actual pro rata cost of providing the program but in no event shall such cost exceed seventy-five dollars (\$75.00); and

(3) Include a procedure by which the commissioner will be notified on a regular and ongoing basis of the names of persons who have received certification or recertification from the program.

(g) The commissioner shall maintain a registry of those persons who have received certification or recertification from an approved program. Such registry shall be updated on a regular basis as notification of persons certified or recertified is received pursuant to subsection (f)(3) of this section.

(h) By July 1, 2004, the commissioner shall notify all food service establishments that prepare and serve potentially hazardous food and that are required by the provisions of this part to obtain an annual permit of the requirements of this section.

(i)

(1) During any inspection of a food service establishment conducted after July 1, 2006, the permit holder shall be required to show that at least one (1) responsible employee or food service manager of such establishment has successfully completed and received certification from an approved food service sanitation training program or that one (1) such employee or manager is at the time of the inspection either taking such a program or has completed the requirements necessary to attend the next available program.

(2) Failure of a food service establishment to comply with the provision of this section shall, in the discretion of the commissioner, be sufficient grounds for the nonrenewal of the establishment's permit.

(j) Initial certification from an approved food service sanitation training program shall be valid for four (4) years from the date of certification. At the end of such period, and every four (4) years thereafter, each responsible employee or food service manager shall be required to successfully complete an approved recertification program.

(k) The commissioner may promulgate any rules necessary to fully implement and effectuate the provisions of this section. Such rules shall be promulgated in accordance with the provisions of the Uniform Administrative Procedures Act, codified in Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 2. Tennessee Code Annotated, Title 68, Chapter 14, is hereby amended by adding the following new section thereto:

Section 68-14-327.

(a) By July 1, 2006, all food service establishments that prepare and serve potentially hazardous foods and that are required by the provisions of this part to obtain an annual permit from the commissioner of health shall have at least one (1) responsible employee or food service manager of such establishment who has successfully completed food service sanitation training through a program developed using a job task analysis for the restaurant and food service industry and received certification by passing an exam that is accredited by the Conference for Food Protection. If such employee or manager has received certification or recertification in another state, the commissioner may accept such certification or recertification on a reciprocal basis provided the other state's program is the equivalent of the approved program in this state.

(b) The department may design, establish, and conduct the initial certification training program or the recertification training or it may delegate such duties to a private person, entity, or association subject to the provisions of this section.

(c) Any person, entity or association that desires to conduct an approved food service sanitation training and certification program or a recertification program shall, submit its proposal for either or both such programs to the commissioner. The commissioner shall approve such proposal before a person, entity, or association engages in any training. Such proposal shall contain, at least, the following information:

(1) Whether the proposal is for an initial certification training program or a recertification program;

(2) The specifics of the proposed program including instructional materials, course outlines, and the duration of the program;

(3) The number and qualifications of the instructors that will be conducting the proposed program;

(4) The number of food service establishment employees or managers that can be trained and certified during each program;

(5) The frequency with which the training program will be offered;

(6) The cost per employee of attending the program;

(7) Proof that the program is the same as or equivalent to the “SERVSAFE, Serving Safe Food” training and certification or recertification program established by the Educational Foundation of the National Restaurant Association; and

(8) Proof that the proposed program will be acceptable in other states.

(d) The commissioner may require such person, entity or association to submit such other information as the commissioner deems necessary to thoroughly evaluate the proposed training and certification program or recertification program.

(e) If no person, entity, or association submits a proposal to conduct a food service sanitation training and certification program or a recertification program, or if the proposals submitted for either such program are not satisfactory to the commissioner, the commissioner shall establish and conduct the program or programs not delegated.

(f) Any such certification or recertification program approved or established and conducted by the commissioner shall:

(1) Be the same or as equivalent to the “SERVSAFE, Serving Safe Food” training and certification or recertification program established by the Educational Foundation of the National Restaurant Association;

(2) Cost the food service establishment employee no more than the actual pro rata cost of providing the program but in no event shall such cost exceed seventy-five dollars (\$75.00); and

(3) Include a procedure by which the commissioner will be notified on a regular and ongoing basis of the names of persons who have received certification or recertification from the program.

(g) The commissioner shall maintain a registry of those persons who have received certification or recertification from an approved program. Such registry shall be updated on a regular basis as notification of persons certified or recertified is received pursuant to subsection (f)(3) of this section.

(h) By July 1, 2004, the commissioner shall notify all food service establishments that prepare and serve potentially hazardous food and that are required by the provisions of this part to obtain an annual permit of the requirements of this section.

(i)

(1) During any inspection of a food service establishment conducted after July 1, 2006, the permit holder shall be required to show that at least one (1) responsible employee or food service manager of such establishment has successfully completed and received certification from an approved food service sanitation training program or that one (1) such employee or manager is at the time of the inspection either taking such a program or has completed the requirements necessary to attend the next available program.

(2) Failure of a food service establishment to comply with the provision of this section shall, in the discretion of the commissioner, be sufficient grounds for the nonrenewal of the establishment's permit.

(j) Initial certification from an approved food service sanitation training program shall be valid for four (4) years from the date of certification. At the end of such period, and every four (4) years thereafter, each responsible employee or food service manager shall be required to successfully complete an approved recertification program.

(k) The commissioner may promulgate any rules necessary to fully implement and effectuate the provisions of this section. Such rules shall be promulgated in accordance with the provisions of the Uniform Administrative Procedures Act, codified in Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 3: This act shall take effect upon July 1, 2004, the public welfare requiring it